

REMARKS

I. The Double Patenting Rejection

Claims 1 and 3-8 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claim 1 of copending Application No. 11/244,159.

Since this is a provisional rejection, Applicants postpone response until one of the instant application or the copending Applications are in condition for allowance. See MPEP 804.I.B.

II. The Rejections under 35 U.S.C. 102(a)/103(a)

Claims 1, 3-6, and 7-8 are rejected under 35 U.S.C. 102(a) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as allegedly being obvious over Kuwamura (US 2004/0119178 A1).

Generally, this type of alternative rejection is used where a claimed feature is thought to be inherent in the art, or, if not, it would be obvious. It is not for discussing separate 102 and 103 rejections. See MPEP 706.02(m), form paragraph 7.27, and the discussion of the use of form paragraph 7.27. The Examiner did not provide any comments as to how the reference anticipates or in the alternative is obvious the claims.

During a brief telephone interview, the Examiner indicated that this header was not intended to be a separate rejection.

III. The Rejections based on Kuwamura

Claim 1 and 3-6 rejected under 35 U.S.C. 102(a) as allegedly being anticipated by Kuwamura (US 2004/0119178 A1).

Claims 1 and 3-6 are rejected under 35 U.S.C. 102(e) as allegedly being anticipated by

Kuwamura (US 2004/0119178 A1).

Claims 1 and 3-6, are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Kuwamura (US 2004/0119178 A1).

Claims 7-8 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Kuwamura (US 2004/0119178 A1) and further in view of Applicant's Admitted Prior Art (AAPA).

Applicants' foreign priority document 2003-418558 has a foreign filing date of December 16, 2003. Filed concurrently herewith is a sworn English-language translation of the foreign priority document. Any rejection based on the §102(a) date is overcome by the sworn English-language translation of the foreign priority document.

Kuwamura is only be available as a reference under 35 U.S.C. §102(e).

It appears that the Examiner's position is that paragraph [0052] of Kuwamura teaches Applicants' claimed width stretching. Specifically, that a birefringent film being "uniaxially" stretched is stretching in the width direction.

Applicants' respectfully submit that Kuwamura does not raise issues of anticipation. Birefringent films are industrially produced using a rolled whole cloth. Under the circumstances, "stretching" means drawing the rolled whole cloth, i.e., stretching in the longitudinal direction. Thus, it is common technical knowledge that "stretching" is in the longitudinal direction, not the width direction, unless otherwise stated. Thus, the uniaxial stretching as mentioned in Kuwamura means stretching in the longitudinal direction, rather than stretching in the width direction as stated by the Examiner.

Under 35 U.S.C. §103(c), Applicants may make a showing of common ownership to overcome the rejection under §103, if the reference is only available as a reference with a date as set forth under §102(e), (f) or (g). The statement of common ownership is below.

Statement of Common Ownership:

I hereby certify that the ownership of U.S. Patent Application No. 10/726,526 (Kuwamura (US 2004/0119178 A1)) and the instant captioned have been reviewed. I also certify that both U.S. Patent Application No. 10/726,526 and instant Application were commonly owned by Nitto Denko Corporation at the time of the invention of the instant application.

For the above reasons, it is respectfully submitted that Kuwamura (US 2004/0119178 A1) is not available as prior art against the instant application and it is requested that the rejection under 35 U.S.C. §103(a) be reconsidered and withdrawn.

IV. Conclusion

In view of the above, Applicants respectfully submit that their claimed invention is allowable and ask that the rejections based on Kuwamura be reconsidered and withdrawn. Applicants respectfully submit that this case is in condition for allowance and allowance is respectfully solicited.

If any points remain at issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the local exchange number listed below.

Application No. 10/554,224
Attorney Docket No. 052638

Amendment under 37 C.F.R. §1.111

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,
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Enclosure: Verified English Language Translation of JP2003-418558